

REMARKS

INTRODUCTION:

In accordance with the foregoing, claim 17 has been canceled without prejudice or disclaimer, claims 5, 16, 18, 20, and 26 have been amended, and claim 42 has been added.

No new matter is being presented, and approval and entry of the foregoing amendments and new claim are respectfully requested.

Claims 1-16 and 18-42 are pending and under consideration. Reconsideration is requested.

REJECTION UNDER 35 U.S.C. §103:

In the Office Action at pages 2-8, the Examiner rejects claims 1-41 under 35 U.S.C. §103 in view of Uranaka (U.S. Patent No. 5,937,158) and Toyama et al. (Japanese Patent Publication No. 07-295,998). The rejection is respectfully traversed and reconsideration is requested.

As a point of clarification, claim 16 has been amended to incorporate the features of claim 17, as filed, and has not been amended to narrow the scope of the claim as compared to claim 17, as filed. Claim 17 has been cancelled without prejudice or disclaimer.

On page 2 of the Office Action, the Examiner asserts, among other features, that Uranaka suggests a medium having a read only area having original commodity catalog information, and a writeable area. However, it is noted that, even assuming Uranaka discloses using either a read only DVD or a rewriteable medium, Uranaka does not suggest a recording medium having a read only section and a writeable section. Specifically, Uranaka suggests a using a read-only DVD 300 in FIG. 3 on which restaurant guide information is prerecorded. When updated restaurant guide information is detected, the updated restaurant guide information is displayed as disclosed in FIG. 5. The DVD 300 can be a rewriteable medium and the updated restaurant guide information can be recorded. (Col. 3, lines 25-34, col. 10, lines 29-45, 51-60, col. 11, lines 5-10 of Uranaka). However, there is no suggestion that, even assuming *arguendo* that Uranaka suggests recording the updated restaurant guide information on a rewriteable recording medium, the rewriteable recording medium should have both a read-only area and a writeable area. Instead, the suggestion is for a rewriteable or a read only medium.

Further, Uranaka suggests updating a customer's purchase history in FIG. 17, but does so on a rewriteable electronic catalog DVD 1200. (Col. 17, lines 17-31, col. 20, lines 45-65 of Uranaka). However, since the DVD 1200 is rewriteable, there is no suggestion that commodities stored on the DVD 1200 are stored in a read-only area as opposed to a rewriteable area.

In contrast, claim 1 recites "a read-only area in which original commodity catalog information is written," and "a writeable area in which updated commodity catalog information is written when provided by a server." Since Toyama et al. similarly does not suggest that the electronic publication medium has a read-only area, it is respectfully submitted that the combination of Uranaka and Toyama et al. does not disclose or suggest the invention recited in claim 1.

For similar reasons, it is respectfully submitted that the combination of Uranaka and Toyama et al. does not disclose or suggest the invention recited in claims 5, 16, 26, and 34.

On page 5 of the Office Action, the Examiner rejects claims 7, 8 and, 21 in view of the Examiner's statement that, since Uranaka suggests displaying items ranked higher in terms of user preference using past purchase history and displaying items which have already been ordered in the past versus items not yet ordered, it would have been obvious to incorporate one further display difference so as to encompass the display methods recited in claims 7, 8, and 21.

However, as acknowledged by the Examiner, Uranaka does not disclose or suggest such alternate display methods. Similarly, Toyama et al. does not suggest such alternate display methods. As such, the Examiner is not relying on evidence found in the prior art to support the rejection of claims 7, 8, and 21, and appears to therefore be taking Official Notice as to the existence and motivation for using the alternative display methods set forth by the Examiner.

By taking Official Notice, the rejection is being based, in part, on the personal knowledge of the Examiner. The personal knowledge of the Examiner, when used as a basis for a rejection, must be supported by an affidavit as to the specifics of the facts of that knowledge when called for by the applicant. See, MPEP 2144.03, 37 C.F.R. § 1.104(d)(2). In short, the rules of the U.S. Patent and Trademark Office require that the Examiner must either support this assertion with an Affidavit, or withdraw the rejection. Therefore, it is further respectfully requested that the Examiner support the rejection with either an affidavit or a reference, or withdraw the rejection.

Claims 2-4, 6, 9-15, 18-20, 22-25, 27-33, and 35-41 are deemed patentable due at least to their depending from corresponding claims 1, 5, 16, 26, and 34.

PATENTABILITY OF NEW CLAIM:

Claim 42 is deemed patentable due at least to its depending from claim 1

CONCLUSION:

In accordance with the foregoing, it is respectfully submitted that all outstanding

objections and rejections have been overcome and/or rendered moot. And further, it is respectfully submitted that all pending claims patentably distinguish over the prior art. Thus, there being no further outstanding objections or rejections, the application is submitted as being in condition for allowance which action is earnestly solicited.

If the Examiner has any remaining issues to be addressed, it is believed that prosecution can be expedited by the Examiner contacting the undersigned attorney for a telephone interview to discuss resolution of such issues.

If there are any additional fees associated with the filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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